

RECEIVED
CENTRAL FAX CENTER
JAN 28 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

MATZ, et al.

Group Art Unit: 2175

Application No. 10/037,005

Examiner:

Filed: December 21, 2001

Title: "Method & System for Storing and Distributing Television Patterns from a Clearinghouse"

37 C.F.R. § 1.8 CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via facsimile to the U.S.P.T.O. centralized number (703) 872-9306.


Name of Person Transmitting This Paper

Signature

28 JAN 2005
Date of Transmission

REQUEST FOR REFUND

Mail Stop: 16
Director of the US Patent & Trademark Office
P.O. Box 1450
Alexandria VA 22313-1450

Director:

I respectfully request a refund of \$1370 in the above-identified application. As the accompanying decision on petition states, the petition fee was twice paid and a refund is permitted. Please make the check payable to Scott P. Zimmerman, PLLC and mail the check to:

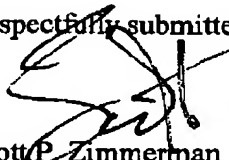
Scott P. Zimmerman
P.O. Box 3822
Cary NC 27519

BS01442

U.S. Application No. 10/037,005
Request for Refund of Petition Fee

If any issues remain outstanding, the Office is requested to contact the undersigned at
(919) 387-6907 or scott@scottzimmerman.com.

Respectfully submitted,



Scott P. Zimmerman
Attorney for the Assignee
Reg. No. 41,390

JAN 28 2005



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.govMERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

DEC 20 2004

OFFICE OF PETITIONS

In re Application of :
Matz et al. :
Application No. 10/037,005 : DECISION GRANTING PETITION
Filed: December 21, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 36968/267872 :

BS01442

This is a decision on the petition, filed August 23, 2004,¹ and again on October 18, 2004,² which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is GRANTED.

Petitioner states that the present nonprovisional application is the subject of an application filed in an 18 month publication country on December 16, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

¹The petition filed on August 23, 2004, was submitted by the law firm of Kilpatrick Stockton LLP.

²The second petition filed on October 18, 2004, was submitted by Scott P. Zimmerman.

Application No. 10/037,005

Page 2

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of March 31, 2005, accompanies this decision on petition.

The Office notes that the current address of record is Merchant & Gould PC, P.O. Box 2903, Minneapolis, MN 55402-0903. On April 4, 2004, Scott P. Zimmerman submitted a request to change the correspondence address. The Office records do not indicate that Mr. Zimmerman has power of attorney in this application. Accordingly, the correspondence address cannot be made of record. If Mr. Zimmerman desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to the law firm of Kilpatrick & Stockton and Mr. Zimmerman. However, all future correspondence will be directed to Merchant & Gould at the address of record until such time as appropriate instructions are received to the contrary.

The Office finance records indicate that the petition fee was paid twice. The second petition fee submitted on October 18, 2004, is not necessary. Therefore, petitioner may request a

Application No. 10/037,005

Page 3

refund of the \$1,370.00 petition fee by writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

This matter is being referred to Technology Center Art Unit 2611.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

cc: Scott P. Zimmerman
P.O. Box 3822
Cary, NC 27519

Kilpatrick & Stockton, LLP
1001 West Fourth Street
Winston-Salem, NC 27101-2400